

Message Text

SECRET

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71

ACTION SS-25

INFO OCT-01 ISO-00 SSO-00 /026 W

----- 078814

O 110059Z AUG 76

FM USMISSION USUN NY

TO SECSTATE WASHDC IMMEDIATE 8597

S E C R E T SECTION 1 OF 5 USUN 3174

STADIS////////////////////////////////

EXDIS

FOR D/LOS

FROM US DEL LOS

E.O. 11652: XGDS-3

TAGS: PLOS

SUBJ: LOS: PAPER FOR SECRETARY'S VISIT

THE FOLLOWING ARE THE REMAINING PAPERS FOR THE
SECRETARY'S VISIT.

YOUR MEETING WITH GROUP OF 77 CHAIRMAN LENNOX BALLAH
OF TRINIDAD AND TOBAGO

PARTICIPANTS

US GROUP OF 77
THE SECRETARY LENNOX BALLAH
UNDER SECRETARY CARLELY MAW ADDRESSED AS: MR. BALLAH
AMBASSADOR T. VINCENT LEARSON
MR. BERNARD H. OXMAN
(NOTETAKER)

CHECKLIST

-- ASK FOR EXPRESSION OF HIS CONCERNS.

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-- COMMITTEE I - EXPRESS CONCERN WITH GROUP OF 77 ACTIONS.

-- COMMITTEE II - STRESS IMPORTANCE OF HIGH SEAS STATUS OF ECONOMIC ZONE.
-- COMMITTEE III - STRESS IMPORTANCE OF MAKING MAJOR CHANGES TO SCIENTIFIC RESEARCH TEXT.
-- DISPUTE SETTLEMENT - STRESS IMPORTANCE OF APPLICATION TO ECONOMIC ZONE DISPUTES.

BACKGROUND

BALLAH IS CHAIRMAN OF THE GROUP OF 77 AT THIS SESSION OF THE CONFERENCE. WE BELIEVE THE DISCUSSIONS WITH HIM SHOULD FOCUS ON THE INTEREST OF DEVELOPING COUNTRIES GENERALLY, RATHER THAN TRINIDAD AND TOBAGO. THE GROUP OF 77 HAS NOT BEEN SUCCESSFUL IN WORKING OUT UNIFIED POSITIONS EXCEPT IN COMMITTEE I.

COMMITTEE I

COMMITTEE I IS IN TURMOIL RIGHT NOW. A GROUP OF VOCAL EXTREMISTS (INDIA, ALGERIA, GHANA, MEXICO AND THE ARAB GROUP) IS DOMINATING THE GROUP OF 77 AND INDICATING SEVERE DISSATISFACTION WITH THE REVISED SNT. MOST OF THIS SESSION RIGHT NOW APPEARS TO BE DOOMED TO OPENING-UP A FEW IMPORTANT ISSUES, WHICH WERE NEGOTIATED WITH THE MEMBERS OF THE SECRET BRAZIL GROUP AT THE LAST SESSION. THE MEMBERS OF THE SECRET BRAZIL GROUP ARE LYING LOW IN THE GROUP OF 77 BECAUSE THEY ARE INTIMIDATED BY THE VOCAL MINORITY WHICH IS NOW CASTIGATING THEM FOR SELLING-OUT TO THE U.S.

THE MAIN ISSUES IN COMMITTEE I FOR THE GROUP OF 77 AT THIS SESSION ARE:

(A) STRENGTHENING THE ENTERPRISE SO THAT THE DEVELOPING COUNTRIES CAN FEEL THAT THE ENTERPRISE WILL BE A VIABLE AND FUNCTIONING ORGAN CAPABLE OF EXPLOITING THE SEABED FROM THE OUTSET.

(B) STRENGTHENING THE POWERS OF THE ASSEMBLY AND WEAKENING THE POWERS OF THE COUNCIL.

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(C) DEFENDING AGAINST THE US COUNCIL PROPOSAL ONCE WE MAKE IT.

(D) WEAKENING THE TRIBUNAL WHICH THE DEVELOPING COUNTRIES FEEL IS NOW THE QTE SUPREME UNQTE ORGAN OF THE AUTHORITY.

THE TRINIDAD & TOBAGO DELEGATION HAS TAKEN A

GENERALLY MODERATE STAND ON COMMITTEE I ISSUES, BUT IT IS NOT CLEAR THAT BALLAH FULLY SHARES THOSE MODERATE VIEWS.

COMMITTEE II

THE GROUP OF 77 IS COMPLETELY PREOCCUPIED IN THIS COMMITTEE BY THE SPLIT BETWEEN THE COASTAL STATES AND THE LANDLOCKED AND GEOGRAPHICALLY DISADVANTAGED STATES. TRINIDAD AND TOBAGO TENDS TO FAVOR THE POSITION OF THE LATTER GROUP ON FISHERIES, SINCE IT DESIRES SPECIAL RIGHTS OF ACCESS TO FISHERIES IN THE ECONOMIC ZONES, OF ITS LARGER COASTAL NEIGHBORS, PARTICULARLY BRAZIL.

THE COASTAL MEMBERS OF THE GROUP OF 77 (EXCEPT FOR SO-CALLED GDS) TEND TO BE STRONG OPPONENTS OF THE HIGH SEAS STATUS OF THE ECONOMIC ZONE.

COMMITTEE III

THE ATTITUDES OF THE GROUP OF 77 ON SCIENTIFIC RESEARCH ARE DOMINATED BY COASTAL STATES, WHICH DESIRE BROAD CONTROL OFF THEIR COASTS. BALLAH HAS TENDED TO FAVOR STRONG COASTAL STATE CONTROLS ON SCIENCE.

DISPUTE SETTLEMENT

THE GROUP OF 77 IS BASICALLY SPLIT ON THE ISSUE ON COMPULSORY DISPUTE SETTLEMENT IN THE ECONOMIC ZONE.

TALKING POINTS

GENERAL:

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THE CONFERENCE IS APPROACHING ITS MOMENT OF TRUTH. IF WE DO NOT ACHIEVE A MAJOR BREAKTHROUGH SOON, IT DOES NOT APPEAR THAT WE WILL BE ABLE TO ACHIEVE AGREEMENT ON A COMPREHENSIVE TREATY.

-- I AM DISTURBED BY REPORTS THAT GREATER PROGRESS HAD NOT BEEN MADE DURING THE FIRST TWO WEEKS, AND WOULD LIKE TO HELP.

-- AT LEAST IN THE SECOND AND THIRD COMMITTEES, AND ON DISPUTE SETTLEMENT, THE REMAINING ISSUES HAVE BEEN ISOLATED FOR INTENSIVE NEGOTIATION.

-- THE REPORTS REGARDING THE MOOD IN THE FIRST COMMITTEE ARE PARTICULARLY DISTURBING. WHATEVER PROBLEMS STATES MAY HAVE WITH A PARTICULAR ASPECT OF THE REVISED TEXT,

THERE IS SIMPLY NO JUSTIFICATION AT THIS LATE DATE FOR
REOPENING THE BASIC QUESTION OF GUARANTEED ACCESS.

-- I WOULD APPRECIATE THE ASSESSMENT OF THE CONFERENCE
LEADERS ON WHAT THE MAJOR PROBLEMS ARE AND HOW WE CAN
OVERCOME THEM.

COMMITTEE I:

-- WE VIEW THE REVISED SNT AS A COMPROMISE DOCUMENT
WHICH IN SOME RESPECTS, PARTICULARLY ON THE QUESTION
OF GUARANTEED ACCESS, DOES NOT GO FAR ENOUGH TO ACCOMMODATE
OUR INTERESTS.

-- WE REALIZE THAT THERE ARE COUNTRIES IN THE GROUP OF 77
WHO FEEL THAT IT HAS GONE MUCH TOO FAR IN OUR DIRECTION.
THIS IS A MATTER FOR CONCERN SINCE WHAT IT SHOWS IS THAT
THERE IS DEEP IDEOLOGICAL DIVISION IN COMMITTEE I WHICH
IS OBSTRUCTING AGREEMENT.

-- IF THE PRICE OF SUCCESS IN COMMITTEE I IS TO FURTHER
LIMIT OUR ACCESS, WE DOUBT OUR CONGRESS WOULD RATIFY THE
TREATY. YOU MUST REALIZE THAT BECAUSE OF THE UNIQUE
SITUATION WE FIND OURSELVES THE ONLY COUNTRY IN THE WORLD
WITH THE TECHNOLOGY TO CONDUCT OCEAN MINING, WE CANNOT BE
SERIOUSLY EXPECTED TO GO MUCH FURTHER IN THE COMMITTEE I
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NEGOTIATIONS.

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ACTION SS-25

INFO OCT-01 ISO-00 SSO-00 /026 W
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O 110059Z AUG 76
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TO SECSTATE WASHDC IMMEDIATE 8598

S E C R E T SECTION 2 OF 5 USUN 3174

STADIS////////////////////////////////

EXDIS

FOR D/LOS

FROM US DEL LOS

-- WE REGARD IT AS IMPORTANT THAT YOU UNDERSTAND THAT THE EXTREME DEMANDS WE ARE NOW SEEING IN COMMITTEE I CAN ONLY CAUSE A BREAKDOWN IN NEGOTIATIONS AND THE LOS OF EVERY COUNTRY'S OBJECTIVES IN BRINGING ABOUT A SATISFACTORY PACKAGE SETTLEMENT IN THE LAW OF THE SEA.

COMMITTEE II

--IT IS IMPORTANT THAT YOU UNDERSTAND THE NATURE OF OUR CONCERNS REGARDING THE HIGH SEAS STATUS OF THE ECONOMIC ZONE.

--WE ARE NOT SEEKING TO REDUCE OR QUALIFY THE AGREED RIGHTS OF THE COASTAL STATE OVER RESOURCES AND OTHER MATTERS IN THE ECONOMIC ZONE BY ASCRIBING A HIGH SEAS STATUS TO THE ZONE. MOREOVER, WE ARE PREPARED TO LEAVE THE EXISTING PROVISION ON RESIDUAL RIGHTS ALONE, IF OUR PROBLEM REGARDING THE STATUS OF THE ZONE IS RESOLVED.

--WE RECOGNIZE THAT THE EXISTING TEXT SPECIFIES THAT FREEDOM OF NAVIGATION AND OVERFLIGHT AND OTHER USES RELATED TO NAVIGATION AND COMMUNICATION ARE PRESERVED IN THE
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ECONOMIC ZONE. HOWEVER, OUR CONERN IS THAT NO DEGREE OF LEGAL LANGUAGE CAN ALTER THE PSYCHOLOGICAL IMPRESSION THAT ONCE A VESSEL NAVIGATING AT SEA HAS CROSSED THE 200-MILELIMIT IT HAS SOMEHOW LEFT THE HIGH SEAS AND IS IN A VAGUE AREA OF COASTAL STATE CONTROL.

-- THE CONFUSION THAT WOULD RESULT OVER TIME IS NOT VERY DIFFERENT FROM THE CONFUSION THAT WOULD EXIST WITHOUT A TREATY. THUS, IN DEALING WITH THIS ISSUE, WE ARE DEALING WITH THE VERY INCENTIVE THE U.S. HAD FOR ENTERING THESE LONG AND VERY ARDOUOUS NEGOTIATIONS IN THE FIRST PLACE. IT MUST BE RESOLVED.

--WE RECOGNIZE THE IMPORTANCE OF THE LANDLOCKED/GDS PROBLEM AND THAT THERE ARE STILL DIFFERENCES BETWEEN DEVELOPING

COUNTRIES ON THIS. IF THE GROUP OF 77 FEELS WE CAN
BE HELPFUL, WE CAN BE MORE ACTIVE ON THE ISSUE.

--(IF ASKED) REGARDING THE CONTINENTAL MARGIN, A REASONABLE
AND REALISTIC ACCOMMODATION, IN OUR VIEW, INCLUDES A PRECISE
AND FAIR DEFINITION OF THE MARGIN WHERE IT EXTENDS BEYOND
200 MILES COUPLED WITH NON-DISCRIMINATORY REVENUE SHARING
FROM MINERAL EXPLOITATION OF THE MARGIN BEYOND 200 MILES.

COMMITTEE III

-- WE ARE DEEPLY DISTURBED BY THE REPORT ON SCIENTIFIC RESEARCH.

--THE TEXT IS MUCH TOO COASTALLY ORIENTED.

--IF WE ADMIT THE PREMISE THAT ALL SCIENTIFIC RESEARCH IN
THE ECONOMIC ZONE REQUIRES COASTAL STATE CONSENT, NO MATTER
WHAT THE QUALIFICATIONS, WE RUN THE RISK THAT THE RULE
OF CONSENT WILL BE ALL THAT SERVES IN PRACTICE.

--THE SCIENTIFIC COMMUNITY IN THE U.S. HAS ATTACKED
THE NEW TEXT BITTERLY AND HAS MADE PERSONAL REPRESENTATIONS
TO MEET THAT THEY WILL DO EVERYTHING THEY CAN TO PREVENT
THE SENATE FROM APPROVING THE TREATY UNLESS THE TEXT IS
CHANGED.

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DISPUTE SETTLEMENT

--THE BASIC PURPOSE OF THIS NEGOTIATION IS TO PREVENT SERIOUS
CONFLICT OVER RIGHTS AND DUTIES IN THE OCEANS.

--THE BASIC PROBLEM GIVING RISE TO THIS NEGOTIATION IS
THAT STATES ARE MAKING CONFLICTING UNILATERAL INTERPRETATIONS
AS TO WHAT IS PERMITTED UNDER INTERNATIONAL LAW AND ATTEMPT-
ING TO ENFORCE THEM. THE SAME THING CAN HAPPEN WITH A
TREATY.

--WE MUST FACE UP TO THE FACT THAT THIS PROBLEM WILL
BE MOST SERIOUS IN THE ECONOMIC ZONE, WHICH IN TRUTH IS AN
AREA THAT IS UNDER COASTAL STATE CONTROL FOR SOME PURPOSES
AND NOT UNDER COASTAL STATE CONTROL FOR OTHER PURPOSES.

--IF COMPULSORY DISPUTE SETTLEMENT PROCEDURES DO NOT APPLY
IN THE ECONOMIC ZONE, THE BASIC ACCOMMODATIONS REACHED WILL
BE ERODED. STATES WILL BE FACED WITH THE SAME DILEMMA
OF WHAT TO DO ABOUT UNILATERAL INTERPRETATION OF THEIR
RIGHTS UNDER A TREATY THAT THEY ARE CURRENTLY FACED WITH.

--ACCORDINGLY, THE QUESTION OF APPLYING COMPULSORY
AND BINDING DISPUTE SETTLEMENT PROCEDURES TO THE ECONOMIC
ZONE IS NOT AN ABSTRACT ISSUE OF SOVEREIGNTY, OR AN
ABSTRACT DEBATE ON THE ADVANTAGES OR DISADVANTAGES OF SUCH
PROCEDURES IN OTHER CASES. IT IS ESSENTIAL IF OUR COMPROMISES
ARE TO BE PERSERVED, AND THE RULES WE WRITE APPLIED IN A
UNIFORM AND REASONABLE WAY TO UNFORESEEN PROBLEMS.

YOUR MEETING WITH FRG STATE SECRETARY OF THE
FEDERAL MINISTRY OF ECONOMICS, ROHWEDDER

PARTICIPANTS

U.S. FRG

SECRETARY ROHWEDDER

MAW KNOKE

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LEARSON

OXMAN

NOTETAKER

CHECKLIST:

-- COMMITTEE I - EXPRESS APPRECIATION AND ASK FOR
CONTINUED HELP ON QUOTA ISSUE

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71
ACTION SS-25

INFO OCT-01 ISO-00 SSO-00 /026 W
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O 110059Z AUG 76

FM USMISSION USUN NY
TO SECSTATE WASHDC IMMEDIATE 8599

S E C R E T SECTION 3 OF 5 USUN 3174

STADIS////////////////////////////////

EXDIS

FOR D/LOS

FROM US DEL LOS

-- CTE. II - EXPRESS APPRECIATION AND ASK FOR
CONTINUED HELP ON HIGH SEAS STATUS OF ECONOMIC ZONE.

-- CTE. III - EXPRESS APPRECIATION AND ASK FOR
CONTINUED HELP ON SCIENTIFIC RESEARCH.

BACKGROUND:

COMMITTEE I.

OUR COOPERATION WITH THE FRG IN LOS MATTERS HAS BEEN
CONSTANT, CLOSE AND HIGHLY SUCCESSFUL. WE HAVE NO MAJOR
OUTSTANDING ISSUES BETWEEN OURSELVES AND FRG REPS AT THE
CONFERENCE. WE ARE CONCERNED, HOWEVER, THAT THE FRG IS
COMING UNDER INCREASING PRESSURE FROM OTHER MEMBERS OF THE
EC TO REVERSE ITS CURRENT POSITION SUPPORTING THE US IN
OPPOSING ANY STATE QUOTA ON SEABEDS MINERALS PRODUCTION.
QUOTA PROVISIONS ARE CURRENTLY BEING ADVOCATED BY THE SOVIET
UNION AND, WITHIN THE EC, BY FRANCE. MOST OTHER MEMBERS OF THE
COMMUNITY WOULD ALSO SUPPORT A QUOTA SYSTEM, GIVEN THE LARGE
TECHNOLOGICAL LEAD OF THE US IN SEABEDS MINING BUT WOULD ALSO
GIVE IN TO US IF FRANCE DOES.

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THE U.S. CONTINUES TO REJECT ANY AND ALL PROPOSALS FOR A
QUOTA IN WHATEVER FORM THEY ARE MADE, EITHER BY LIMITS ON
SITES PER STATE, OR ON PRODUCTION BY INDIVIDUAL STATES. WE
HAVE INDICATED TO THE SOVIETS AND OTHER MEMBERS OF THE GROUP OF
FIVE AND THE FRG AS WELL (WHICH IS NOT A MEMBER OF THE GROUP OF
FIVE, BUT WHOM WE KEEP FULLY BRIEFED ON GROUP OF FIVE MATTERS)
THAT THIS IS A NO-SIGN ISSUE FOR THE U.S.

THE FRG HAS SUPPORTED US FULLY ON OUR ANTI-QUOTA
POSITION, BUT IS CLEARLY PREPARED TO RETREAT FROM THIS POSI-
TION AND SEEK A COMPROMISE SOLUTION, IF GIVEN AN INDICATION
FROM THE U.S.

COMMITTEE II

THE FRG IS ONE OF OUR SUPPORTERS IN THE LOS NEGOTIATIONS ON ALL MAJOR ISSUES OF INTEREST TO US BEFORE THE CONFERENCE AND WITHIN THE EC-9.

THE FRG IS SATISFIED WITH THE PROVISIONS OF THE TEXT ON LL/GDS RIGHTS (BECAUSE OF THEIR EC-9 MEMBERSHIP) AND SHOULD BE ENCOURAGED TO PLAY A MODERATING ROLE IN THAT GROUP. THEY STRONGLY SUPPORT US ON HIGH SEAS STATUS OF THE ZONE AND SHOULD BE SIMILARLY ENCOURAGED IN THAT REGARD. UNDER THE 1976 FISHERIES CONSERVATION ACT, FISHING BY FOREIGN VESSELS WITHIN A 200-MILE ZONE OFF U.S. COASTS WILL BE PERMITTED BY THE US ONLY FOR THOSE STOCKS NOT FULLY UTILIZED BY US FISHERMEN AND ONLY ON THE ISSUANCE OF A PERMIT BY THE U.S. GOVERNMENT. AS THE FRG HAS PREVIOUSLY FISHED WITHIN THE US ZONE ESTABLISHED UNDER THAT ACT, THE PROBABILITY OF REDUCTION IN FRG FISHING OFF OUR COASTS, ALWAYS WITH A POSSIBILITY OF A TOTAL PHASE OUT, CAUSES POLITICAL PROBLEMS WITH THE FRG. AS THE LAW HAS NOT BEEN ENACTED, THERE IS LITTLE THE US CAN DO TO EASE FRG CONCERNS WITH THE EXCEPTION OF INDICATING TO THE FRG THAT THE US IS PREPARED TO NEGOTIATE A NEW FISHERIES AGREEMENT THAT IS CONSISTENT WITH THE NEW LAW. UNDER SECTION 201(E) OF THE ACT, WE WILL TAKE INTO CONSIDERATION THE FRG'S TRADITIONAL FISHERIES IN THAT AREA, COOPERATION WITH AND CONTRIBUTIONS TO THE AREA OF MARINE SCIENTIFIC RESEARCH BY COOPERATION IN ENFORCEMENT OF FISHERIES REGULATIONS, ETC.,

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IN DETERMINING THE ALLOCATION AMONG OTHER NATIONS OF ANY FISH STOCKS SURPLUS TO US HARVESTING CAPACITY.

DURING THE LOS NEGOTIATION, THE FRG, DESPITE US SUPPORT, HAS NOT BEEN ADMITTED TO GROUP OF 5 MEETINGS. THIS EXCLUSION, UPON SOVIET INSISTENCE, HAS BEEN A SOURCE OF IRRITATION TO FRG OFFICIALS, ALTHOUGH WE HAVE KEPT THEM INFORMED OF THE MEETINGS AND WILL CONTINUE TO DO SO.

COMMITTEE III.

THE FRG IS OUR STRONGEST SUPPORTER IN OPPOSING THE CONSENT REGIME FOR SCIENTIFIC RESEARCH. THEY HAVE CHAIRED THE COMMITTEE III WORKING GROUP ON SCIENTIFIC RESEARCH FOR 2 YEARS.

THE FRG SUPPORTS A RESTRICTION ON THE COASTAL STATE RIGHT TO ESTABLISH VESSEL POLLUTION CONTROL REGULATIONS IN THE TERRITORIAL SEA REGARDING DESIGN, CONSTRUCTION, EQUIPMENT AND MANNING. THE US OPPOSES ANY SUCH RESTRICTION. THEY MAY

RAISE THE ISSUE WITH YOU.

COMPULSORY DISPUTE SETTLEMENT.

THE US HAS WORKED CLOSELY WITH THE FRG ON DISPUTE SETTLEMENT AND HAS FEW SIGNIFICANT DIFFERENCES WITH THEM. PROF. JAENICKE HAS PLAYED AN ACTIVE ROLE AND MIGHT BE COMPLIMENTED.

TALKING POINTS:

COMMITTEE I

-- WE GREATLY APPRECIATE THE CLOSE AND HIGHLY USEFUL WORKING RELATIONSHIP WE HAVE HAD WITH THE FRG DURING THE LOS CONFERENCE SESSIONS, AND LOOK FORWARD MAINTAINING THIS CLOSE RELATIONSHIP IN THE FUTURE.

-- WE ARE FORTUNATE IN HAVING NO OUTSTANDING MAJOR ISSUES BETWEEN US. OUR ONE CONCERN IS THAT THE EC OF WHICH THE FRG IS A MEMBER, MAY BE EDGING TOWARD COMPRO-
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MISE PROPOSALS ON THE SEABEDS QUOTA ISSUE. THE US CONSIDERS THE QUOTA ISSUE TO BE OF FUNDAMENTAL IMPORTANCE AND WILL NOT BE ABLE TO AGREE TO AN LOS TREATY WHICH CONTAINS QUOTA OR RESTRICTIVE ANTI-DOMINANT PROVISIONS. WE HOPE THAT THE FRG WILL CONTINUE TO MAKE EVERY EFFORT WITHIN THE EC TO ENSURE THAT THE COMMUNITY DOES NOT ENDORSE PROPOSALS FOR QUOTAS, WHATEVER THE FORM IN WHICH THEY APPEAR.

-- WE ARE NOW DRAFTING A NEW PROPOSAL ON THE COUNCIL WHICH WE WILL SHOW THE FRG BEFORE IT IS INTRODUCED TO THE COMMITTEE. IT WILL INCORPORATE THE PRINCIPLE OF WEIGHTED VOTING AND USE A HIGH MAJORITY FOR ART. 9 (ECONOMIC) DECISIONS AND FOR THE DISAPPROVAL OF CONTRACTS (WE WOULD TO AMEND TO REVISED SNT SO THAT A CONTRACT FOR EXPLOITATION WILL BE AUTOMATICALLY APPROVED UNLESS DISAPPROVED BY THE COUNCIL). ON ALL OTHER DECISIONS OF SUBSTANCE, WE WOULD ALSO USE WEIGHTED VOTING, BUT WITHOUT AS HIGH A MAJORITY. I WILL INSTRUCT THE US DELEGATION TO COMMUNICATE YOUR REACTIONS TO OUR COUNCIL PROPOSAL DIRECTLY TO ME.

COMMITTEE II

-- THIS SESSION OF THE CONFERENCE MAY WELL DETERMINE WHETHER THESE NEGOTIATIONS CAN RESULT IN A TREATY WHICH ACCOMMODATES THE INTERESTS OF THE WORLD COMMUNITY.

-- WE CAN AND SHOULD CONCLUDE THE SUBSTANTIVE NEGOTIA-

TIONS AT THIS SESSION.

-- THE LOS NEGOTIATIONS TOUCH ON A NUMBER OF ISSUES OF VITAL INTEREST TO THE US AND THAT WE CANNOT AGREE TO A TREATY WHICH DOES NOT MEET OUT BASIC CONCERNS.

-- THE US HAS BEEN A LEADER IN THESE NEGOTIATIONS IN SEEKING COMPROMISES AND ATTEMPTING TO ACCOMMODATE THE INTERESTS OF THE LARGE MAJORITY OF NATIONS WITH OCEANS CONCERNS.

-- THE US HAD MADE A NUMBER OF COMPROMISE PROPOSALS IN AN EFFORT TO REACH A BROADLY ACCEPTABLE AGREEMENT. SOME OF THESE HAVE ENTAILED IMPORTANT CONCESSIONS ON OUR PART.

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HOWEVER, THERE IS A POINT BEYOND WHICH THE US IN NOT PREPARED TO GO.

-- THUS, WHILE CLEARLY WANTING TO RESOLVE ALL MAJOR ISSUES AT THIS SESSION, WE ARE NOT WILLING TO MAKE CONCESSIONS MERELY FOR THE SAKE OF QUICK AGREEMENT.

-- WE HOPE THAT YOU WILL PLAY A MODERATING ROLE WITHIN THE LL/GDS GROUP.

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71
ACTION SS-25

INFO OCT-01 ISO-00 SSO-00 /026 W
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O 110059Z AUG 76
FM USMISSION USUN NY
TO SECSTATE WASHDC IMMEDIATE 8600

S E C R E T SECTION 4 OF 5 USUN 3174

STADIS////////////////////////////////////

EXDIS

-- WE CONTINUE TO FIRMLY SUPPORT THE HIGH SEAS STATUS
OF THE ECONOMIC ZONE AND APPRECIATE YOUR STAUNCH SUPPORT.

COMMITTEE III

-- I APPRECIATE YOUR STRONG SUPPORT ON THE SCIENTIFIC
RESEARCH ISSUE AND YOUR EFFORTS AS CHAIRMAN OF THE
WORKING GROUP IN COMMITTEE III.

-- I AM EXTREMELY CONCERNED ABOUT THIS ISSUE AND HOPE
WE CAN CONTINUE TO WORK TOGETHER IN OPPOSITION TO THE
CONSENT REGIME.

-- (IF ASKED). WE CONTINUE TO OPPOSE RESTRICTIONS ON THE
COASTAL STATE RIGHT TO ESTABLISH VESSEL POLLUTION CONTROL
REGULATIONS IN THE TERRITORIAL SEA.

-- AS YOU KNOW, WE HAVE DOMESTIC LEGISLATION ON THIS
A VERY HIGH CONGRESSIONAL INTEREST IN MAINTAINING THIS RIGHT.

LUNCHEON - LINKS CLUB - AUGUST 13, 1976, 1:15 P.M.

PARTICIPANTS

U.S. FOREIGN
THE SECRETARY JENS EVENSEN, NORWAY, MINISTER
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UNDER SECRETARY MAW WITHOUT PORTFOLIO
AMBASSADOR LEARSON ADDRESSED: MR. MINISTER
BERNARD H. OXMAN BERNARDO ZULETA, U.N. SECRETARIAT
NOTETAKER UNDER SECRETARY GENERAL, SPECIAL
REPRESENTATIVE OF THE SECRETARY
GENERAL ADDRESSED:MR. SECRETARY
ALEXANDER YANKOV, BULGARIA
AMBASSADOR EXTRAORDINARY AND
PLENIPOTENTIARY TO THE U.K. OF
GREAT BRITAIN AND NORTHERN IRELAND
ADDRESSED: MR. AMBASSADOR
PAUL ENGO, CAMEROON, MINISTER
PLENIPOTENTIARY AND TECHNICAL
ADVISER FOR MINISTER OF FOREIGN
AFFAIRS ADDRESSED. MR. MINISTER
ANDRES AGUILAR, VENEZUELA
AMBASSADOR ADDRESSED: MR.
AMBASSADOR
ALAN BEESLEY, CANADA SPECIAL

ADVISER FOR LAW OF THE SEA
ADDRESSED:MR. AMBASSADOR
KENNETH RATTRAY, JAMAICA
AMBASSADOR, DEPT. OF THE ATTORNEY
GENERAL ADDRESSED: MR. AMBASSADOR

CHECKLIST

-- COMMITTEE I - EXPRESS CONCERN AT EXTREME GROUP OF
77 POSITION.

-- COMMITTEE II - EXPRESS IMPORTANCE OF HIGH SEAS
STATUS OF ECONOMIC ZONE.

-- COMMITTEE III - STRESS NECESSITY OF MAJOR CHANGE
TO SCIENTIFIC RESEARCH TEXT.

-- DISPUTE SETTLEMENT - STRESS IMPORTANCE OF APPLICATION
TO ECONOMIC ZONE DISPUTES.

BACKGROUND

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THE LUNCHEON AFFORDS YOU AN OPPORTUNITY TO GET
THE VIEWS OF THE MAIN ELECTED OFFICERS OF THE CONFERENCE
ON WHERE THINGS STAND. DURING YOUR LAST VISIT TO THE
CONFERENCE YOU MET ALL THOSE PRESENT AT THE LUNCH
EXCEPT EVENSEN AND AGUILAR.

BOTH MINISTER EVENSEN AND AMBASSADOR AGUILAR ARE
WIDELY RESPECTED AND VERY KNOWLEDGEABLE LEADERS. PAUL
ENGO IS NOT, FOR THE MOMENT, IN CONTROL OF HIS
COMMITTEE. AMBASSADOR YANKOV IS VERY PERCEPTIVE AND
ABLE, BUT MUST CONSTANTLY LOOK OVER HIS BACK AT THE
SOVIETS. A REPEAT PERFORMANCE OF MODERATE YANKEE-
BAITING FROM ALAN BEESLEY OF CANADA IS POSSIBLE (HE
ATTACKED US ON STRAITS WHEN YOU MET WITH THE CONFERENCE
LEADERSHIP LAST TIME).

IT WOULD SEEM APPROPRIATE FOR US TO FOLLOW THE SAME
PROCEDURE YOU USED DURING YOUR LAST CALL ON THE CONFERENCE
LEADERSHIP, NAMELY ASKING EACH OF THE LEADERS TO GIVE
HIS ASSESSMENT OF THE PROBLEMS IN HIS COMMITTEE AND VIEWS
ON HOW YOU CAN BE OF ASSISTANCE. HOWEVER, SINCE THE
LUNCH AFFORDS MORE TIME FOR DISCUSSION, YOU MAY WISH TO
STIMULATE SOME GROUP DISCUSSION AFTER EACH OF THE
COMMITTEE CHAIRMEN SPEAK.

THE MAIN IMPRESSION WE RECOMMEND YOU LEAVE IS

THAT TIME IS RUNNING OUT QUICKLY ON THE POSSIBILITY OF
ACHIEVING A COMPREHENSIVE LAW OF THE SEA TREATY. AS A
MATTER OF SUBSTANCE, THE MAIN POINTS WE WISH TO COVER ARE:

--COMMITTEE I: HOW TO BRING THE NEGOTIATION TO A
SUCCESSFUL CONCLUSION IN VIEW OF THE STRONG REACTIONS
OF CERTAIN DEVELOPING COUNTRIES TO THE RSNT.

-- COMMITTEE II: THE HIGH SEAS STATUS OF THE
ECONOMIC ZONE.

-- COMMITTEE III: THE EXTREME COASTAL ORIENTATION
OF THE RSNT ON SCIENTIFIC RESEARCH.

-- DISPUTE SETTLEMENT: THE NEED TO ENSURE COMPULSORY AND
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BINDING THIRD PARTY PROCEDURES FOR DISPUTES
REGARDING THE ECONOMIC ZONE.

TALKING POINTS

GENERAL:

-- REMARK ACKNOWLEDGING FACT THAT THE PEOPLE IN
THE ROOM HAVE WORKED FOR MANY YEARS ON THE LOS
NEGOTIATIONS AND THAT WE APPRECIATE IMPORTANCE OF THEIR
EFFORTS.

-- THE CONFERENCE IS APPROACHING ITS MOMENT OF
TRUTH. IF WE DO NOT ACHIEVE A MAJOR BREAKTHROUGH SOON,
IT DOES NOT APPEAR THAT WE WILL BE ABLE TO ACHIEVE
AGREEMENT ON A COMPREHENSIVE TREATY.

-- I AM DISTURBED BY REPORTS THAT GREATER PROGRESS HAS
NOT BEEN MADE DURING THE FIRST TWO WEEKS, AND WOULD
LIKE TO HELP.

-- AT LEAST IN THE SECOND AND THIRD COMMITTEES, AND ON
DISPUTE SETTLEMENT, THE REMAINING ISSUES HAVE BEEN
ISOLATED FOR INTENSIVE NEGOTIATION.

-- THE REPORTS REGARDING THE MOOD IN THE FIRST
COMMITTEE ARE PARTICULARLY DISTURBING. WHATEVER
PROBLEMS STATES MAY HAVE WITH A PARTICULAR ASPECT OF
THE REVISED TEXT, THERE SIMPLY NO JUSTIFICATION AT THIS
LATE DATE FOR REOPENING THE BASIC QUESTION OF
GUARANTEED ACCESS.

-- WE WOULD APPRECIATE THE ASSESSMENT OF THE

CONFERENCE LEADERS ON WHAT THE MAJOR PROBLEMS ARE
AND HOW WE CAN OVERCOME THEM. FOR OUR PART, WE ARE
ASSUMING THAT THE BASIC STRUCTURE OF A 12-MILE
TERRITORIAL SEA, FREE TRANSIT OF STRAITS, A 200-MILE
ECONOMIC ZONE, AND A REASONABLE REGIME FOR
DEEP SEABED RESOURCES WITH GUARANTEED ACCESS IS
AGREED DESPITE SCATTERED OPPOSITION.

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COMMITTEE I:

--WE VIEW THE REVISED SNT AS A COMPROMISE DOCUMENT WHICH
IN SOME RESPECTS, PARTICULARLY ON THE QUESTION OF GUARAN-
TEED ACCESS, DOES NOT GO FAR ENOUGH TO ACCOMMODATE OUR
INTERESTS.

--WE REALIZE THAT THERE ARE COUNTRIES IN THE GROUP OF 77
WHO FEEL THAT IT HAS GONE MUCH TOO FAR IN OUR DIRECTION.
THIS IS A MATTER FOR CONCERN SINCE WHAT IT SHOWS IS THAT
THERE IS DEEP IDEOLOGICAL DIVISION IN COMMITTEE I WHICH
IS OBSTRUCTING AGREEMENT.

--IF THE PRINCE OF SUCCESS IN COMMITTEE I IS TO FURTHER
LIMIT OUR ACCESS, WE DOUBT OUR CONGRESS WOULD RATIFY THE
TREATY. OUR FRIENDS IN THE GROUP OF 77 UST REALIZE

THAT BECAUSE OF THE UNIQUE SITUATION WE FIND OURSELVES
IN AS THE ONLY COUNTRY IN THE WORLD WITH THE TECHNOLOGY
TO CONDUCT OCEAN MINING, WE CANNOT BE SERIOUSLY EXPECTED
TO GO MUCH FURTHER IN THE COMMITTEE I NEGOTIATIONS.

--WE REGARD IT AS IMPORTANT THAT THE CONFERENCE LEADER-
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SHIP SPREAD THE WORD THAT THE EXTREME DEMANDS WE ARE
NOW SEEING IN COMMITTEE I CAN ONLY CAUSE A BREAKDOWN IN
NEGOTIATIONS AND THE LOS OF EVERY COUNTRY'S OBJECTIVES
IN BRINGING ABOUT A SATISFACTORY PACKAGE SETTLEMENT
IN THE LAW OF THE SEA.

COMMITTEE II:

--IT IS IMPORTANT THAT YOU UNDERSTAND THE NATURE OF OUR
CONCERNS REGARDING THE HIGH SEAS STATUS OF THE ECONOMIC
ZONE.

--WE ARE NOT SEEKING TO REDUCE OR QUALIFY THE AGREED
RIGHT OF THE COASTAL STATE OVER RESOURCES AND OTHER
MATTERS IN THE ECONOMIC ZONE BY ASCRIBING A HIGH SEAS
STATUS TO THE ZONE. MOREOVER, WE ARE PREPARED TO LEAVE
THE EXISTING PROVISION ON RESIDUAL RIGHTS ALONE, IF OUR
PROBLEM REGARDING THE STATUS OF THE ZONE IS RESOLVED.

--WE RECOGNIZE THAT THE EXISTING TEXT SPECIFIES THAT
FREEDOM OF NAVIGATION AND OVERFLIGHT AND OTHR USES
RELATED TO NAVIGATION AND COMMUNICATION ARE PRESERVED
IN THE ECONOMIC ZONE. HOWEVER, OUR CONCERN IS THAT NO
DEGREE OF LEGAL LANGUAGE CAN ALTER THE PSYCHOLOGICAL
IMPRESSION THAT ONCE A VESSEL NAVIGATING AT SEA HAS
CROSSED THE 200-MILE LIMIT, IT HAS SOMEHOW LEFT THE HIGH
SEAS AND IS IN A VAGUE AREA OF COASTAL STATE CONTROL.

-- THE CONFUSION THAT WOULD RESULT OVER TIME IS NOT VERY
DIFFERENT FROM THE CONFUSION THAT WOULD EXIST WITHOUT A
TREATY. THUS, IN DEALING WITH THIS ISSUE, WE ARE DEALING
WITH THE VERY INCENTIVE THE US HAD FOR ENTERING THESE
LONG AND VERY ARDUOUS NEGOTIATIONS IN THE FIRST PLACE.
IT MUST BE RESOLVED.

COMMITTEE III:

--WE ARE DEEPLY DISTURBED BY THE RSNT ON SCIENTIFIC
RESEARCH.

--THE TEXT IS MUCH TOO COASTALLY ORIENTED.
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--IF WE ADMIT THE PREMISE THAT ALL SCIENTIFIC RESEARCH IN THE ECONOMIC ZONE REQUIRES COASTAL STATE CONSENT, NO MATTER WHAT THE QUALIFICATIONS, WE RUN THE RISK THAT THE RULE OF CONSENT WILL BE ALL THAT SURVIVES IN PRACTICE.

--THE SCIENTIFIC COMMUNITY IN THE US HAS ATTACKED THE NEW TEXT BITTERLY AND HAS MADE PERSONAL REPRESENTATIONS TO ME THAT THEY WILL DO EVERYTHING THEY CAN TO PREVENT THE SENATE FROM APPROVING THE TREATY UNLESS THE TEXT IS CHANGED.

DISPUTE SETTLEMENT:

-- THE BASIC PURPOSE OF THIS NEGOTIATION IS TO PREVENT SERIOUS CONFLICT OVER RIGHTS AND DUTIES ON THE OCEANS.

--THE BASIC PROBLEM GIVING ROSE TO THIS NEGOTIATION IS THAT STATES ARE MAKING CONFLICTING UNILATERAL INTERPRETATIONS AS TO WHAT IS PERMITTED UNDER INTERNATIONAL LAW AND ATTEMPTING TO ENFORCE THEM. THE SAME THING CAN HAPPEN WITH A TREATY.

--WE MUST FACE UP TO THE FACT THAT THIS PROBLEM WILL BE MOST SERIOUS IN THE ECONOMIC ZONE, WHICH IN TRUTH IS AN AREA THAT IS UNDER COASTAL STATE CONTROL FOR SOME PURPOSES AND NOT UNDER COASTAL STATE CONTROL FOR OTHER PURPOSES.

-- IF COMPULSORY DISPUTE SETTLEMENT PROCEDURES DO NOT APPLY IN THE ECONOMIC ZONE, THE BASIC ACCOMMODATIONS REACHED WILL BE ERODED. STATES WILL BE FACED WITH THE SAME DILEMMA OF WHAT TO DO ABOUT UNILATERAL INTERPRETATION OF THEIR RIGHTS UNDER A TREATY THAT THEY ARE CURRENTLY FACED WITH.

-- ACCORDINGLY, THE QUESTION OF APPLYING COMPULSORY AND BINDING DISPUTES SETTLEMENT PROCEDURES TO THE ECONOMIC ZONE IS NOT AN ABSTRACT ISSUE OF SOVEREIGNTY, OR AN ABSTRACT DEBATE ON THE ADVANTAGES OR DISADVANTAGES OF SUCH PROCEDURES IN OTHER CASES. IT IS ESSENTIAL IF OUR COMPROMISES ARE TO BE PRESERVED, AND THE RULES WE WRITE

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APPLIED IN A UNIFORM AND REASONABLE WAY TO UNFORESEEN PROBLEMS.

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